

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)	
)	
Revision of the Commission's Rules to Ensure)	CC Docket No. 94-102
Compatibility with Enhanced 911 Emergency)	RM-8143
Calling Systems)	

REPLY COMMENTS OF AIRTOUCH COMMUNICATIONS

AirTouch Communications ("AirTouch") submits its reply comments in response to comments filed on the petition ("Petition") filed by the Cellular Telecommunications Industry Association ("CTIA")¹ seeking reconsideration of certain provisions of the Commission's December 1997 *Memorandum Opinion and Order* in the above-captioned proceeding.² The Petition requests a number of important revisions to and clarifications of the Commission's Reconsideration Order that are critical to the successful, efficient and effective implementation of an Enhanced 911 ("E911") plan. The changes requested by CTIA will ensure that reliable E911 services are available to all wireless callers. In addition to AirTouch's general support for the Petition, AirTouch also wishes to highlight a number of key issues raised in the comments on the petition that are of particular importance to CMRS carriers.

¹ Petition for Reconsideration and Clarification of the Cellular Telecommunications Industry Association, filed February 17, 1998.

² *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Memorandum Opinion and Order*, CC Docket No. 94-102, RM-8143, FCC 97-402 (rel. Dec. 23, 1997) ("Reconsideration Order").

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I. COMMENTERS SUPPORT THE NEED FOR LIMITED LIABILITY FOR CMRS CARRIERS IN LIGHT OF THE COMMISSION'S RECENTLY IMPOSED E911 REQUIREMENTS

As many of the commenters on the Petition recognize, the Commission's decision to require CMRS carriers to complete all 911 calls from subscribers and non-subscribers alike without a concomitant uniform limitation of liability leaves CMRS carriers with the potential for substantial exposure to liability in the provision of 911 services.³ Indeed, the Commission acknowledges as much in its Reconsideration Order in which it admits that CMRS providers "cannot contractually insulate themselves from liability when non-subscribers use their systems."⁴ Nonetheless, the Commission declines to "to preempt any applicable state law."⁵

The Commission's decision leaves CMRS carriers in the untenable position of having to forward all 911 calls without the limitations on liability that are traditionally afforded to communications common carriers, including wireline carriers. CTIA's Petition proposes -- and a number of commenters support⁶ -- a feasible solution to provide CMRS carriers with the traditional limited immunities from liability. Specifically, CTIA proposes, among other options, that the Commission permit carriers to file informational tariffs

³ Comments of PrimeCo Personal Communications, L.P. at 1-3 ("PrimeCo Comments"); Comments of Bell Atlantic Mobile, Inc. at 1-2 ("BAM Comments"); Comments of the Rural Telecommunications Group at 2-6 ("RTG Comments"); Comments of AT&T Wireless Services Inc. at 6-7 ("AT&T Wireless Comments"); Response of TruePosition, Inc. at 4-5.

⁴ Reconsideration Order at ¶ 140.

⁵ *Id.*

⁶ PrimeCo Comments at 3; RTG Comments at 5. *See also* AT&T Wireless Comments at 6-7.

setting forth the terms and conditions for the provision of E911 service to subscribers and non-subscribers, including carrier limitations on liability.⁷ Such tariffs would not be subject to FCC approval, would be deemed lawful and would not need to be accompanied by cost support data.⁸ AirTouch agrees that the filing of informational tariffs regarding E911 service would be a cost-efficient method of placing both subscribers and non-subscribers on notice of CMRS carriers' liability with respect to E911 calls. The filing of such informational tariffs would be one "reasonable [way] for a carrier to attempt to make the use of its network by a non-subscriber subject to the carrier's terms and conditions for liability."⁹

II. COMMENTERS SUPPORT EQUITABLE COST RECOVERY MECHANISMS

As the Commission recognized in its order adopting E911 rules,

No party disputes the fundamental notion that carriers must be able to recover their costs of providing E911 services . . . [C]arriers and governments uniformly recognize . . . that resolving cost recovery issues is a prerequisite to E911 deployment¹⁰

Consistent with this notion of cost recovery, CTIA requested that the Commission clarify that Public Safety Answering Points ("PSAPs") cannot require CMRS carriers to recover

⁷ CTIA Petition at 13.

⁸ *Id.*

⁹ Reconsideration Order at ¶ 140.

¹⁰ *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 94-102, 11 FCC Rcd 18676 at ¶89 (1996) ("E911 Report and Order").

their costs of implementing E911 solely from their CMRS customers.¹¹ In addition, CTIA urged the Commission to ensure that state or local cost recovery mechanisms are competitively neutral.¹²

As commenters on the Petition appropriately recognized, an equitable cost recovery method must not force CMRS carriers to recoup the costs of implementing an E911 system solely from their customers.¹³ The benefits of reliable E911 service inure not only to CMRS customers, but also to the public generally. CTIA presents VITA Wireless Samaritan Awards to wireless phone customers who have used their wireless phones to summon help in emergency situations. For example, Joanne Williams used her wireless phone to call 911 when the bus on which she and 58 fellow passengers were riding was hijacked en route to a Louisiana vacation spot.¹⁴ A few examples of VITA award recipients are attached at Exhibit A. As these examples demonstrate, wireless E911 capability serves more than just wireless customers. Because the public at large benefits from E911 service, it would be inequitable for CMRS customers alone to shoulder the costs of such service.

III. COMMENTERS SUPPORT CMRS CARRIERS' ABILITY TO SELECT THE APPROPRIATE E911 TRANSMISSION TECHNOLOGY

Commenters also support CTIA's request that the Commission clarify that it should be the sole responsibility of CMRS carriers, not PSAPs, to select the most

¹¹ Petition at 17.

¹² *Id.* at 18.

¹³ AT&T Wireless Comments at 4-5; PrimeCo Comments at 3-5.

¹⁴ *See* Exhibit A.

appropriate E911 transmission technology.¹⁵ Although the Commission adopted general performance criteria for CMRS carriers' compliance with wireless E911 requirements, it did not mandate the use of specific technical standards. Instead the Commission adopted a flexible approach that would permit carriers to develop "creative technological approaches to E-911 deployment."¹⁶

To be sure, implementation of an effective E911 systems will require cooperation between CMRS carriers and PSAPs. However, implicit in the Commission's adoption of a flexible approach is the ability of CMRS to choose among available technological options and select the most effective and efficient system for that carrier.¹⁷ A PSAP-dictated choice may not be the best solution for *all* wireless carriers and, accordingly, may create unnecessary costs and delays in the implementation of E911 systems. In the current competitive CMRS industry, CMRS carriers – not PSAPs – are in the best position to evaluate the costs and benefits of alternative approaches and select the most appropriate solution for a wireless environment. Competition encourages innovation and cost management in the provision of E911 services. These benefits will be lost if PSAPs are permitted to impose E911 technological solutions. Adoption of the clarification proposed

¹⁵ PrimeCo Comments at 5; BAM Comments at 4; AT&T Wireless Comments at 2-3.

¹⁶ E911 Report and Order at ¶ 76.

¹⁷ As CTIA suggests, the Commission also should consider how handset-based solutions for transmitting caller location data may fit into Phase II requirements. Continuing developments in handset technologies may reveal that in certain circumstances, handsets may be the best or only solution for E911 service. If this proves true, and in order not to discourage further innovations in handset-based technology, the Commission will need to reassess the current "flash-cut" compliance deadlines established for Phase II.

by CTIA will deter disputes between CMRS carriers and PSAPs regarding selection of transmission technologies thereby promoting rapid deployment of wireless E911 systems.

CONCLUSION

For all of the foregoing reasons, the Commission should grant the Petition for Reconsideration. Prompt adoption of the revisions to and clarifications of the Commission's Reconsideration Order will ensure that all wireless callers will be afforded the opportunity to enjoy the benefits of an Enhanced 911 service.

Respectfully submitted,

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Exhibit A



HIGHWAY SAFETY

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Three hijackers were no match for JoAnn Williams *and her wireless phone.*



JoAnn Williams and 58 fellow bus passengers were on their way to a Louisiana vacation spot when three hijackers came on board. JoAnn remained calm, slipped her wireless phone from her purse and carefully placed a call to 911. With JoAnn's help, police were able to locate the bus and arrest the hijackers as they fled the scene. Each year, people with wireless phones make millions of calls that help to make their communities and all of us a little safer--whether it's to stop crime, save lives, summon help when a car breaks down or just to call ahead to say they're running late.

Who'd have thought a phone so small could do so much?



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With a cool head *and a wireless phone*, Jeff Augram saved a young boy's life.



Jeff Augram, a police officer and trained emergency medical technician, was driving on U.S. 74 in rural North Carolina when he came upon an accident. A 10-year-old boy who had been hit by a car was lying unconscious in the road. Jeff pulled out his trauma kit, checked the boy's vital signs and got him breathing again. Then, without missing a beat, Jeff reached for his wireless phone and called for an emergency rescue unit. Thanks to Jeff's quick action, the boy was airlifted to the hospital and made a full recovery. Every year, people with wireless

phones make

millions of calls that help to make their communities and all of us a little safer--whether it's to save lives, stop crime, summon help when a car breaks down or just to call ahead to say they're running late. Who'd have thought a phone so small



could do so much?

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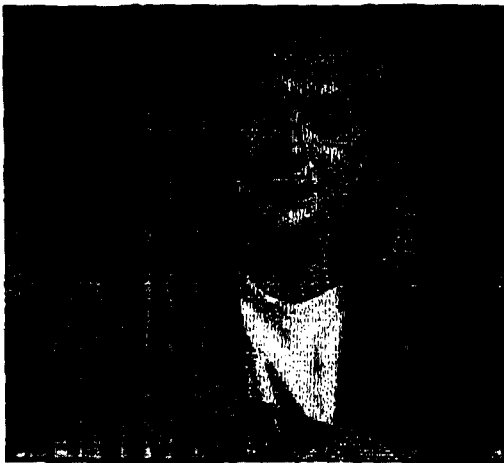


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Another Philadelphia suburb is safer thanks to Sherry Apelt and her wireless phone.



In a suburb of Philadelphia, a grandmother patrols the streets each night armed with only two things--her strong conviction that people have a right to safe neighborhoods and her wireless phone.

Ever since Sherry Apelt founded the Neighborhood Watch program in her area, the streets are more peaceful, and Sherry and her neighbors have much more peace of mind. Each year, people with wireless phones make millions of calls that help to make their communities and all of us a little safer--whether it's to stop crime, save lives,

summon help when a car breaks down or just to call ahead to say they're running late. Who'd have thought a phone so small could do so much?



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Jim McCollough and his new COPP Phone Alerts Police to Drunk Driver

Within an hour of receiving his COPP phone from Cellular South, Jim McCollough of the Pike County (Mississippi) neighborhood watch program was driving home on Interstate 55 when he observed a car driving erratically and on the wrong side of the Freeway. Mr. McCollough quickly dialed the Sheriff's Office on his COPP phone and directed them to the location of the drunk driver. Within minutes the Pike County



Sheriff's Office apprehended the driver.

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CERTIFICATE OF SERVICE

I hereby certify that I have this 30th day of March, 1998, caused copies of the foregoing "Reply Comments of AirTouch Communications" to be sent by first-class mail, postage prepaid, to the following persons:

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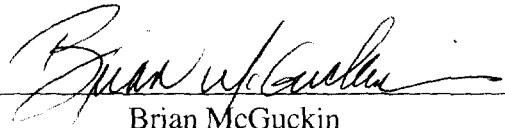
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